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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 RICHARD L. ALLEY,
12 Petitioner,

No. CIV-S-04-1934 MCE/PAN P

13 v.

ORDER

14 TOM L. CAREY,
15 Respondent.
16 _____/

17 Petitioner, a state prisoner proceeding pro se, has timely
18 filed a Notice of Appeal of this Court's October 17, 2005, denial
19 of his Application for a Writ of Habeas Corpus. Before
20 Petitioner can appeal this decision, a Certificate of
21 Appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P.
22 22(b).

23 A Certificate of Appealability may issue under 28 U.S.C.
24 § 2253 "only if the applicant has made a substantial showing of
25 the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).
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1 The court must either issue a Certificate of Appealability
2 indicating which issues satisfy the required showing or must
3 state the reasons why such a certificate should not issue. Fed.
4 R. App. P. 22(b).

5 For the reasons set forth in the Magistrate Judge's August
6 31, 2005, Findings and Recommendations, Petitioner has not made a
7 substantial showing of the denial of a constitutional right.
8 Accordingly, a Certificate of Appealability should not issue in
9 this action.

10 IT IS SO ORDERED.

11 DATED: December 16, 2005

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15 MORRISON C. ENGLAND, JR.
16 UNITED STATES DISTRICT JUDGE
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